

# भारत का राजपत्र

## The Gazette of India



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EXTRAORDINARY

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PART II—Section 2

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इस भाग में भिन्न पाठ संख्या दी जाती है जिससे कि यह असर संकलन  
के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed  
as a separate compilation

### LOK SABHA

The following Bills were introduced in Lok Sabha on 28th August, 1987:—

BILL No. 74 OF 1987

*A Bill further to amend the Constitution of India.*

Be it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1987.

Short title  
and com-  
mence-  
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 19 of the Constitution, in clause (4), after the words "reasonable restrictions on the exercise of the right conferred by the said sub-clause", the words "and in particular nothing in the said sub-clause shall prevent the State from making any law for banning the operation of any political organisation based on any caste or religion" shall be inserted.

Amend-  
ment of  
article 19.

## STATEMENT OF OBJECTS AND REASONS

The Indian State is at the cross-roads. After 40 years of independence the State is facing unprecedented challenges from religious fundamentalists and fanatics who are threatening to destroy the secular polity. The Constitutional guarantee of fundamental rights was incorporated in the Indian Constitution by its founding fathers with the hope that the Indian polity will gain greater and greater strength with a free people trying to seek the fulfilment of their destiny in a secular environment. This hope has been belied to a great extent as the fissiparous tendencies existing at the subterranean levels got great strength due to the unhealthy way in which the political system operated in post independent India. Political parties came up on the scene with an avowed sectarian and communal appeal which inflamed the passions of the people and directed their energies through destructive channels. A lot of blood of the children of Mother India has been shed.

As a political organisation based on a religion or caste is the main instrument of strife and disharmony, it is high time the legislative process is set in motion to put a stop to this. Existence of political organisations based on religion or caste cuts at the very root of a secular polity and therefore the imperative need of the hour is to put them out of existence. A constitutional enactment in the nature of an enabling provision is required for this purpose.

Hence this Bill.

NEW DELHI;

MULLAPPALLY RAMACHANDRAN

*July 15, 1987.*

## BILL No. 76 OF 1987

*A Bill further to amend the Constitution of India.*

Be it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1987.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 78 of the Constitution, after clause (b), the following Explanation shall be added, namely:—

Amendment of article 78.

*Explanation.—The nature and adequacy of the information to be furnished shall be determined by the Council of Ministers and the President shall be bound by such decision of the Council of Ministers.”.*

## STATEMENT OF OBJECTS AND REASONS

Article 78 of the Constitution specifies the duties of the Prime Minister as respects the furnishing of information to the President. Clause (b) of this article states as follows:

“to furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for.”

A good deal of controversy has arisen recently with regard to the interpretation of this article inasmuch as it relates to the right of the President to get information from the Prime Minister on any particular matter. An attempt was made to upset the scheme of the Constitution and clothe the President with powers which are not expressly provided for in the Constitution. In the absence of any authoritative judicial pronouncement, the exact scope of clause (b) of article 78 remains undefined.

Under the scheme of our Constitution, the President is a figure-head and he acts through his Ministers. Article 74 compels the President to act in accordance with the advice given by the Council of Ministers. Article 78 defines in clear terms the relationship between the President and his Council of Ministers. When the Prime Minister furnishes information on any matter called for by the President, he sufficiently complies with the requirement of this article.

However, since this matter has not been finally settled by the Court, an amendment to article 78 is essential to put it beyond a shadow of doubt.

Hence this Bill.

NEW DELHI;

MULLAPPALLY RAMACHANDRAN

July 15, 1987.

## BILL No. 80 OF 1987

*A Bill to provide for the issue of identity Cards to the citizens of India.*

Be it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Citizens (Identity Card) Act, 1987.

Short title and commencement,

(2) It shall come into force from such date as may be appointed by the Central Government for the purpose.

2. In this Act,—

Definitions.

(a) "citizen" means the citizen of India as defined under the Citizenship Act, 1955;

(b) "prescribed" means prescribed by rules made under the Act.

57 of 1955.

3. (1) Within six months from the date of the coming into force of this Act, every citizen of India shall hold and possess an identity card issued to him by the Central Government.

Issuance of identity cards to the citizens.

(2) The identity card issued under sub-section (1) shall contain the following information:—

(a) full name in capital letters with latest photograph of the citizen;

- (b) age;
- (c) permanent address;
- (d) temporary address, if any;
- (e) business or occupation;
- (f) educational qualification;
- (g) blood group; and
- (h) a remarks column.

(3) Identity card to be issued shall be prepared in the manner to be prescribed under the rules.

Citizens not holding identity cards to be deprived of certain benefits.

4. A citizen who does not hold an identity card under the Act,—

- (a) shall not, notwithstanding anything contained in any other law for the time being in force, be entitled to the benefit of any scheme of the Central Government, the State Government or a corporation or undertaking of either the Central or the State Governments;
- (b) shall not be entitled, notwithstanding anything contained in any other law for the time being in force, for an employment under the Central Government, the State Government or any corporation or undertaking of either the Central or the State Governments.

Power to make rules.

5. (1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the rules may provide for the—

- (a) manner in which publicity shall be given to the provisions of the Act so as to enable the people to get their identity cards prepared;
- (b) size and shape of the identity card, the photograph to be affixed to the same and of the letters to be used therein;
- (c) authority or the authorities empowered to issue the identity card; and
- (d) authority or authorities empowered to make entries in the remarks column and the nature of remarks to be made.

## STATEMENT OF OBJECTS AND REASONS

Although India is a vast country with almost 70 crore population, the need to provide identity cards to each and every citizen, despite tremendous task and labour involved in it, cannot be side-lined.

In the interest of security and integrity of the country, requirement of holding of identity card is absolutely essential. Besides, the identity card will also give to the citizens an additional sense of belonging.

For the time being, it is sufficient if non-holders of cards are deprived of certain facilities only. The matter of making the law further stringent and providing even compulsory imprisonment to non-holders of the identity cards can be considered after the law stands the test of the time at least for a period of five years.

NEW DELHI;  
*July 15, 1987.*

SHANTARAM NAIK.

## FINANCIAL MEMORANDUM

Clause 3(1) of the Bill provides for issuing of identity cards to every citizen of the country. Clause 5(2) (a) provides for giving publicity to the provisions of the Act so as to enable the people to get their identity cards issued. The major expenditure will be involved in getting the cards printed. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees ten lakhs per annum on account of appointment of staff who will issue the identity cards.

A non-recurring expenditure of about rupees twenty crores is likely to be involved.

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## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clauses 3 and 5 of the Bill empower the Government to make Rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only.

The delegation of legislative power is, therefore, of a normal character.

## BILL No. 86 OF 1987

*A Bill further to amend the Constitution of India.*

Be it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1987. Short title.
2. In Part VI of the Constitution,—Amend-  
ment of  
Part VI.
  - (a) in Chapter II.—The Executive, the sub-heading “*The Governor*” shall be omitted;
  - (b) article 153 shall be omitted;
  - (c) in article 154,—
    - (i) in clause (1), for the word “*Governor*”, the words “*Chief Minister*” shall be substituted;
    - (ii) clause (2) shall be omitted;
  - (d) articles 155 to 161 shall be omitted;
  - (e) in article 164, in clause (3), for the word “*Governor*”, the words “*Chief Justice of the High Court of that State*” shall be substituted;

(f) in article 200,—

(i) the words “the Governor and the Governor shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of” shall be omitted;

(ii) the proviso shall be omitted;

(g) in article 201,—

(i) the words “When a Bill is reserved by a Governor for the consideration of the President,” shall be omitted;

(ii) the proviso shall be omitted;

(h) in article 202, in clause (3), sub-clause (a) shall be omitted.

Amend-  
ment of  
article  
239.

3. In article 239 of the Constitution, clause (2) shall be omitted.

Amend-  
ment of  
article  
324.

4. In article 324 of the Constitution, in clause (6), the words “or the Governor of a State” shall be omitted.

Amend-  
ment of  
article  
356.

5. In article 356 of the Constitution, in clause (1),—

(a) the words “on receipt of a report from the Governor of a State or otherwise” shall be omitted;

(b) in sub-clause (a), for the words “the Governor”, the words “the Chief Minister” shall be substituted.

Amend-  
ment of  
article  
361.

6. In article 361 of the Constitution,—

(a) in clause (1), the words “or the Governor” shall be omitted;

(b) in clauses (2) and (3), the words “or the Governor of a State” shall be omitted; and

(c) in clause (4), the words,—

(i) “or the Governor of a State”;

(ii) “or as Governor of such State”; and

(iii) “or the Governor, as the case may be”;

shall be omitted.

Amend-  
ment of  
article  
367.

7. In article 367 of the Constitution, in clause (2), the words “or, to an Ordinance made by a Governor, as the case may be” shall be omitted.

Amend-  
ment of  
Second  
Sche-  
dule.

8. In the Second Schedule to the Constitution,—

(a) in Part A, in the heading, the words “AND THE GOVERNORS OF STATES” shall be omitted;

(b) in entry 1,—

(i) the words “and to the Governors of the States” shall be omitted;

(ii) the words and figures “The Governor of a State..... 11,000 rupees.” shall be omitted;

(c) in entry 2, the words or word,—

(i) “and to the Governors of the States”;

(ii) “respectively”;

(iii) “and to the Governors of the corresponding Provinces immediately before the commencement of this Constitution”;

shall be omitted;

(d) in entry 3, the word or words,—

(i) “and the Governors of the States”;

(ii) “and the Governors of the corresponding Provinces”;  
and

(iii) “respectively”;

shall be omitted;

(e) in entry 4, the words,—

(i) “or any person is discharging the functions of the Governor”;

(ii) “or the Governor”;

shall be omitted.

9. Throughout the Constitution, any reference to the Governor shall be deemed and construed as a reference to the President of India.

Reference to the Governor to be construed as reference to the President of India.

## STATEMENT OF OBJECTS AND REASONS

The institution of 'Governors' was created by the founding fathers of our Constitution as "Eyes and Ears" of the President in the States, to be occupied by persons of highest dignity, unquestionable morality and unimpeachable conduct and character, respected by one and all.

They are not expected to act as mere rubber-stamps of the Central Government, just because they are being appointed by the President at the instance of the Government at Centre and remain in office during his pleasure. The functions of Governors are ceremonial for which the States are made to pay very heavily.

The Executive of the States can administer their States with their elected representatives, the Chief Minister and his Cabinet, with President as an overall supervisory head, who is elected by the representatives of entire country.

NEW DELHI;

*July 24, 1987.*

N. VENKATA RATNAM

## BILL NO. 75 OF 1987

*A BILL further to amend the Constitution of India.*

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1987.

(2) It shall come into force at once.

Short title and commencement.

2. In the Seventh Schedule to the Constitution,—

(i) in List I—Union List, after entry 61, the following entry shall be inserted, namely:—

“61A. Education, including technical education, medical education and universities.”;

(ii) in List III—Concurrent List, entry 25 shall be omitted.

Amendment of Seventh Schedule.

### STATEMENT OF OBJECTS AND REASONS

At one time diversities in various fields in different parts of our country used to be our strength. But, unfortunately, people sometimes have either misunderstood the scope of retaining a distinct identity of a region or have deliberately misutilised the same disregarding the national interests.

Education is being stressed upon by the Government in the 7th Plan, not only with a view to eradicate illiteracy but the instrument of education is going to be utilised on war-footing for the purpose of eradicating poverty.

In case, this is the objective of the Government and if we have chalked out a National Education Policy for the purpose, how would the national objective of the National Education Policy be achieved in the absence of full authority to the Government of India in the matter of education.

Today, the subject is in the Concurrent List of the Seventh Schedule to the Constitution but, it is, in practice, in the State List and the Government hardly utilises its overriding legislative powers. Each State Government is having its own laws and rules and schemes on education. The Government of India only proposes to issue guidelines and instructions to the State and Union territory Governments in the matter of achieving the objectives of National Education Policy. The Central Government, as yet, have no effective way of handling an erring State or Union territory Government.

Hence, this Bill proposes to include the subject of Education in the Union List, but for which, the National Education Policy cannot be a success.

NEW DELHI;

*July 24, 1987.*

SHANTARAM NAIK.

## BILL No. 85 of 1987

*A Bill to provide for the constitution of a welfare fund for payment of retirement benefits to advocates and for matters connected therewith or incidental thereto.*

WHEREAS it is expedient to provide for the constitution of a welfare fund for the payment of retirement and other benefits to advocates and for matters connected therewith or incidental thereto;

Be it enacted by the Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Advocates' Welfare Fund Act, 1987.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

(a) 'advocate' means a person whose name continues in the State roll of advocates prepared and maintained by any State Bar Council under section 17 of the Advocates Act, 1961 and who is also a member of a Bar Association, or a Society of Advocates registered under the Societies Registration Act, 1860;

Short title,  
extent  
and  
commencement.

Definitions.

(b) 'Bar Association' means an association of advocates which is recognised by the Bar Council of India under section 13;

(c) 'Bar Councils' means the State Bar Councils constituted under section 3 of the Advocates Act, 1961;

25 of 1961.

(d) 'Cessation of practice' means removal of the name of an advocate from the State rolls maintained by a State Bar Council on account of his death or retirement, or on account of his voluntary cessation on the ground of permanent physical or mental disability;

(e) 'Committee' means the central committee established under section 4;

(f) 'Fund' means the Advocates' Welfare Fund constituted under section 3;

(g) 'member of the Fund' means an advocate admitted to the benefit of the Fund and continuing to be a member thereof under the provisions of this Act;

(h) 'prescribed' means prescribed by rules made under this Act;

(i) 'retirement' means stoppage of practice as an Advocate, communicated to and recognised by the Committee;

(j) 'society' means an association of advocates, registered under the Societies Registration Act, 1860, other than the Bar Association and recognised by the Bar Council of India;

(k) 'stamp' means the Advocates' Welfare Fund stamp printed and distributed under section 22;

(l) 'suspension of practice' means voluntary suspension of practice as an advocate or suspension by a Bar Council for misconduct; and

(m) 'vaklatnama' means memorandum of appearance or any other document by which an advocate is empowered to appear or plead before any court, tribunal or other authority.

Constitution  
of an  
Advocates'  
Welfare  
Fund

3. (1) With effect from the date of establishment of the Committee under sub-section (1) of section 4, there shall be constituted a Fund to be called the Advocates' Welfare Fund.

(2) There shall be credited to this Fund:—

(a) all amounts that may be paid by the State Bar Councils under section 12;

(b) any voluntary donations or contribution made to the Fund by the Bar Council of India, any Bar Association, any other association, or any institution, any advocate, or any other person;

(c) any sum borrowed under section 10;

(d) any interest or dividend or other return on any investment made out of any part of the Fund;

(e) all sums collected by way of sale of stamps under section 22; and

(f) all sums collected under Section 15 by way of application fees and annual subscription and interest thereof.

(3) The sums specified in sub-section (2) shall be paid to or collected by the Committee and the accounts of the fund shall be maintained and operated in such manner as may be prescribed.

4. (1) There shall be constituted by the Central Government a Central Committee consisting of the following members nominated by the Central Government:—

(i) Attorney-General of India—*ex-officio* member and Chairman;

(ii) Secretary, Ministry of Law and Justice, Government of India—*ex-officio* member;

(iii) Chairmen, State Bar Councils—*ex-officio* members;

(iv) Ten eminent advocates to be nominated by the Chief Justice of Supreme Court;

(v) Treasurer, Bar Council of India—*ex-officio* member and treasurer;

(2) The Chairman, Bar Council of India shall be the *ex-officio* Secretary to the Committee.

(3) The Committee shall be a body corporate with a common seal and perpetual succession with its Head Office at New Delhi having power to acquire and hold property and shall, by the said name, sue or be sued.

(4) The nominated members shall hold office for a period of four years.

(5) The Bar Councils shall establish Committees, having twenty members, with Chairmen of Bar Councils as their heads, to help the Central Committee in its functioning.

5. (1) A person shall be disqualified for being nominated or appointed as and for being a member of the Committee, if he—

(a) becomes of unsound mind, or

(b) is adjudged an insolvent, or

(c) is absent without leave of the Committee for more than three consecutive meetings of the Committee, or

(d) is a defaulter to the Fund (in case he is a member of the Fund) or has committed breach of trust, or

(e) is convicted by a criminal court for an offence involving moral turpitude, unless such conviction has been set aside, or

(f) is removed from the roll of a State Bar Council for whatsoever reason.

Establish-  
ment of  
Central  
Com-  
mittee.

Disquali-  
fication  
of nomi-  
nated  
mem-  
bers  
of the  
Com-  
mittee.

(2) On a member being disqualified, as per sub-section (1), a vacancy arises from the date on which the Committee declares him to be so disqualified.

Vacancy  
due to  
resigna-  
tion.

6. (1) Any member, nominated under sub-section (1) of section 4, may resign from his office, by giving notice in writing to the Chairman of the Committee, and on acceptance of his resignation he shall be deemed to have vacated his office.

(2) Any casual vacancy in the office of a member may be filled up, as soon as may be, the Central Government and a member so nominated to fill such vacancy shall hold office for the unexpired portion of the term of office of the member whose place he fills.

(3) Whenever a casual or temporary vacancy occurs in the office of the Chairman of the Committee, whoever is incharge of the office of the Solicitor-General of India for the time being, shall function as the Chairman of the Committee.

Act of  
Com-  
mittee  
not to be  
invali-  
dated  
by any  
vacancy,  
defect, etc.

7. No act done or proceeding taken under this Act or the rules made thereunder by the Committee shall be invalidated merely by reason of—

- (a) any vacancy or defect in the constitution of the Committee; or
- (b) any defect or irregularity in the nomination of any person as a member thereof; or
- (c) any defect or irregularity in such act or proceeding not affecting the merits of the case.

Vesting  
and appli-  
cation of  
fund.

8. The Fund shall vest in, and be held and applied by, the Committee subject to the provisions, and for the purposes of the Act.

Functions  
of the  
Com-  
mittee.

9. (1) The Committee shall administer the Fund.

(2) In the administration of the Fund, the Committee shall, subject to the provisions of this Act and the rules made thereunder:—

- (a) hold the amounts and assets belonging to the fund in trust;
- (b) receive applications for admission or re-admission to the Fund, and dispose of such applications within ninety days from the date of receipt thereof;
- (c) receive applications from the members of the Fund, their nominees or legal representatives, as the case may be, for payments out of the Fund, conduct such enquiry as it may deem necessary for the disposal of such applications and dispose of the applications within three months from the date of receipt thereof;
- (d) record in the minutes book of the Committee the decisions on the applications;
- (e) pay to the applicants amount at the rates specified in the Schedule;

(f) send such periodical and annual reports to the Central Government and the Bar Council of India in the prescribed manner;

(g) communicate to the applicants by registered post with acknowledgement due, the decision of the Committee in respect of applications for admission or readmission to the Fund or claims to the benefit of the Fund; and

(h) do such other acts as are, or may be, required to be done under this Act and the rules made thereunder.

10. (1) The Committee may, with the prior approval of the Central Government, borrow, from time to time, any sum required for carrying out the purposes of this Act.

Borrowing and Investment.

(2) The Committee shall deposit all moneys and receipts forming part of the Fund in any Scheduled bank or invest the same in loans in any Corporation owned or controlled by the Central Government or the State Governments or in loans floated by the Central Government or the State Governments.

(3) All amounts due and payable under this Act and all expenditure relating to the management and administration of the Fund shall be paid out of the Fund.

(4) The accounts of the Committee shall be audited annually by a Chartered Accountant appointed by the Central Government.

(5) The accounts of the Committee, as certified by the auditor, together with the audit report thereon, shall be forwarded to the Central Government by the Committee, and the Central Government may issue such directions as it may deem fit to the Committee in respect thereof.

(6) The Committee shall comply with the directions issued by the Central Government under sub-section (5).

*Explanation.*—For the purposes of this Act the Ministry of Law and Justice, Government of India, shall be the Administrative Department.

11. The Secretary of the Committee shall—

Powers and duties of Secretary.

(a) be the chief executive authority of the Committee responsible for carrying out its decisions;

(b) represent the Committee in all suits and proceedings for and against the Committee;

(c) authenticate by his signature all decisions and instructions of the Committee;

(d) operate the bank accounts of the Committee jointly with the Treasurer;

(e) convene meetings of the Committee and prepare its minutes;

(f) attend the meetings of the Committee with all the necessary records and information;

(g) maintain such forms, registers and other records as may be prescribed from time to time and do all correspondence relating to the Committee;

(h) prepare an annual statement of business transacted by the Committee during each financial year; and

(i) do such other acts as may be directed by the Committee.

Contri-  
bution by  
the Bar  
Councils.

**12.** The Bar Councils shall contribute to the Fund annually an amount equal to twenty percentum of the enrolment fees realised by them every year..

Recog-  
nition and  
regis-  
tration of  
Bar Assos-  
ciations.

**13.** (1) All associations of Advocates known by any name functioning in any Court may, before a date to be notified by the Bar Council of India in this behalf, apply to the State Bar Council where it is situated in such form as may be prescribed for recognition and registration.

(2) The provisions of sub-section (1) shall apply *mutatis mutandis* to societies.

(3) Every application for recognition and registration of an association shall be accompanied by their rules or bye-laws, names and addresses of the office bearers with an up-to-date list of the members showing the name, address, age, date of enrolment and the ordinary place of practice of each member.

(4) The Bar Councils shall examine the applications and shall forward them to the Bar Council of India with their recommendations for granting recognition to an association or not.

(5) The Bar Council of India may, after such enquiry, as it may deem necessary, recognise an association and issue a certificate of registration in such form as may be prescribed.

(6) The decision of the Bar Council of India regarding the recognition and registration of an association shall be final.

Duties  
of Bar  
Associa-  
tion.

**14.** (1) Every Bar Association shall, on or before the 15th April every year furnish to the Bar Council of India a list of its members as on the 31st March of that year.

(2) Every Bar Association shall, intimate to the Bar Council of India,—

(a) any change of the office bearers of the association within fifteen days from such change;

(b) any change in the membership including admission and re-admission within thirty days of such change;

(c) the death, retirement or voluntary suspension of practice of any of its members within thirty days from the date of occurrence thereof; and

(d) such other matters as may be required by the Bar Council of India from time to time.

(3) The provisions of sub-section (2) shall apply *mutatis mutandis* to the Societies.

15. (1) Every Advocate practising in any Court, and being a member of a Bar Association, or a society, may apply to the Committee for admission as a member of the Fund in such form as may be prescribed.

Member-  
ship in  
the Fund.

(2) On receipt of an application under sub-section (1), the Committee shall make such enquiry as it may deem fit and either admit the applicant to the fund or for reasons to be recorded in writing, reject the application:

Provided that no order rejecting an application shall be passed unless the applicant has been given an opportunity of being heard.

(3) Every applicant shall pay an application fee of one hundred rupees payable alongwith the application to the account of the Committee:

Provided that advocates having less than five years standing practice of the Bar will pay only rupees fifty.

(4) In the event of rejection of an application, the fee paid alongwith the application shall be refunded to the applicant.

(5) Every member shall pay an annual subscription, to the fund on or before the 30th June of every year, at the following rates, namely:—

(a) where the standing of the advocate at the Bar is five years—nil;

(b) where the standing of the advocate at the Bar is more than five years but less than fifteen years—fifty rupees;

(c) where the standing of the advocate at the Bar is fifteen years or more—one hundred rupees.

(6) A member may pay the subscription under sub-section (5) in two equal instalments at his option.

(7) Any member, who fails to remit the annual subscription for any year before the 30th June of the year, shall be liable to be removed from the membership of the Fund.

(8) Any person removed from the membership of the Fund under sub-section (7), shall be readmitted to the Fund on payment of the arrears, with interest at twelve per cent. per annum, within six months from the date of removal subject to payment of twenty-five percentum of the annual subscription as renewal fee.

(9) Every member shall, at the time of admission to the membership of the Fund, make a nomination conferring on one or more persons the right to receive the amount which may be due to him from the Fund, in the event of his death, before the amount had been paid to him.

(10) If a member nominates more than one person under sub-section (9), he shall specify, in the nomination, the amount or share payable to each of the nominees in such manner as to cover the whole of the amount that may be due to him.

(11) A member may at any time cancel a nomination by sending a notice in writing to the Committee, provided that he shall, along with such notice, send a fresh nomination and no cancellation shall be effective unless fresh nominations are made by the member cancelling the earlier nomination.

(12) A member who received any other pensionary benefits or has suspended his practice voluntarily or otherwise before attaining his sixtieth year not being permanently disabled, shall not be permitted to the benefit under the Act; however, at the discretion of the Committee, he may be paid the total annual membership subscription paid by him.

(13) Subject to the provisions made above, the annual subscription is non-refundable.

(14) A member of the Fund shall have the obligation of appearing and conducting such cases which may be entrusted to him by the respective State Legal Aid and Advisory Committees and similar Committees functioning in different districts and sub-divisions of the State unless there are reasonable excuses for his non-appearance.

Payment  
from  
the fund  
on  
cessation  
of prac-  
tice.

16. (1) A member of the Fund shall, on cessation of practice, be entitled to receive, from and out of the fund, an amount at the rates specified in the Schedule subject to other provisions of this Act.

(2) In the event of the death of a member, the amount shall be paid to his nominee(s) or, where there is no nominee, to his legal heirs.

(3) A member of the Fund may opt retirement benefits at any time after five years of his admission as a member of the Fund, but he shall be eligible for re-admission to the Fund as a new member subject to such conditions, as may be prescribed:

Provided that a member suffering from permanent disability shall be allowed to retire within five years of his admission to the Fund.

(4) For calculating the period of completed years of practice for the purpose of payment under this Act, every four years of practice at the Bar, if any, before the admission of a member to the fund, shall be computed as one year of practice after such admission.

(5) An application for payment from the Fund shall be preferred to the Committee in such form as may be prescribed.

(6) An application received under sub-section (5) shall be disposed of by the Committee after such enquiry as it may deem necessary.

Restric-  
tion on  
aliena-  
tion,  
attachmen  
t etc. of  
interes  
in the  
Fund

17. (1) The interest of any member in the Fund or the right of a member or his nominee or his legal heirs to receive any amount from the Fund, shall not be assigned, alienated, or charged and shall not be liable to attachment under any decree or order of any Court, tribunal or other authority.

(2) No creditor shall be entitled to proceed against the Fund or the interest therein of any member or his nominee or his legal heirs.

*Explanation.*—For the purposes of this section, creditor includes the State or an official assignee or receiver appointed under the Insolvency Act, 1955, or any other law for the time being in force.

18. (1) A member of the fund may suspend his membership for any reason whatsoever and on his suspension, he shall cease to be a member of the fund and become disentitled to the benefits under this Act.

Cessation and re-admission.

(2) On his resumption of practice, he may apply for re-admission on making the following payments to entitle him to the benefits under this Act—

(a) fifty per cent. of the admission fee,

(b) an amount equal to the total annual subscription that he would have paid, had he not discontinued his membership.

19. (1) The Committee shall meet at least once in three calendar months or more often, if found necessary, to transact business under this Act or the rules made thereunder.

Meetings of the Committee.

(2) Ten members of the Committee shall form the quorum for any meeting of the Committee.

(3) The Chairman or in his absence, a member, elected by the members present, shall preside over a meeting of the Committee.

(4) Any matter coming up before a meeting of the Committee shall be decided by a majority of the members present and voting at the meeting and, in the case of an equality of votes, the Chairman or the member presiding over the meeting shall have a casting vote.

20. The non-official members of the Committee shall be eligible to get, out of the Fund, such travelling allowances and daily allowances as are admissible to the members of a State Bar Council.

Traveling and daily allowance to members of Committee.

21. (1) An appeal against any decision of the Committee shall lie to the Central Government.

Appeal against decision of Committee.

(2) The appeal shall be in the prescribed form and shall be accompanied by—

(a) a copy of the order appealed against, and

(b) a receipt evidencing payment of one hundred rupees to the credit of the fund in any of the branches of the State Bank of India.

(3) The appeal shall be filed within thirty days from the date of receipt of the order appealed against.

(4) The decision of the Central Government on appeal shall be final.

22. (1) The Central Government and State Governments, on behalf of the Committee, shall cause to be printed and distributed the stamps of the value of two rupees and its value inscribed thereon in their respective jurisdictions.

Printing and distribution of stamps by the Central Government and State Governments.

(2) The stamps shall be of the size 1"×2".

(3) The custody of the stamps shall be with the Central Government or the State Governments who shall maintain a separate account and head for this.

(4) The Central Government or the State Governments shall control the distribution and sale of the stamps through the stamp vendors appointed by them for the sale of court fee stamps.

(5) The Central Government and the State Governments at the time of closing of every financial year shall transfer the sale proceeds of the stamps after the payment of commission and deduction of all expenditure incurred by them on the printing, distribution, etc. of stamps to the Fund.

(6) The Central Government and the State Governments shall also furnish to the Committee a statement containing the number of stamps printed, sold and amount so transferred to the Fund after deducting commission and expenses incurred by them within three months from such transfer.

Vakalat.  
nama to  
bear  
stamp.

23. (1) Every member of the Fund shall affix on stamp on every vakalatnama or memorandum of appearance filed by him and no vakalatnama or memorandum shall be filed before or received by any court, tribunal or other authority unless it is so stamped.

(2) Every stamp affixed on vakalatnames filed before any court, tribunal or other authority shall be cancelled in the manner provided for court fee stamps.

(3) The value of the stamp shall neither be costs in the suit or case nor be collected in any event from the client.

(4) Any contravention of the provisions of sub-section (3), by a member shall disentitle him to the benefits of the fund and the Committee shall report such instances to the Bar Council of India for appropriate action.

(5) No court, tribunal or authority shall accept any Vakalatnama or memorandum of appearance filed unless the stamp is affixed to it except when filed by an advocate appearing—

- (a) for an indigent person, or
- (b) for any person receiving legal aid, or
- (c) as *amicus curiae*.

Protec-  
tion of  
action  
taken  
in good  
faith.

24. (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder.

(2) No suit, or other legal proceeding shall lie against the Committee for any damage caused or likely to be caused by any thing which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder.

Bar of  
jurisdi-  
ction of  
Civil  
Courts.

25. No Civil court, shall have jurisdiction to settle decide or deal with any question or determine any matter which is required to be settled, decided or dealt with or to be determined by the Committee or any other authority under this Act.

5 of 1908.

**26.** The Committee shall for the purpose of any enquiry under this Act have the same powers as are vested in a Civil Court while trying a suit under Code of Civil Procedure, 1908 in respect of the following matters, namely:—

- (a) enforcing the attendance of any person or examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavit; and
- (d) issuing commissions for the examination of witnesses.

Power to summon witnesses and take evidence.

**27.** The Central Government may, in consultation with the Committee, make rules for the purpose of carrying into effect the provisions of this Act.

Power to make rules.

### THE SCHEDULE

(See section 16)

	Rs.
30 years' standing	50,000
29 years' standing	49,000
28 years' standing	48,000
27 years' standing	47,000
26 years' standing	46,000
25 years' standing	45,000
24 years' standing	44,000
23 years' standing	43,000
22 years' standing	42,000
21 years' standing	41,000
20 years' standing	40,000
19 years' standing	39,000
18 years' standing	38,000
17 years' standing	37,000
16 years' standing	36,000
15 years' standing	35,000
14 years' standing	34,000
13 years' standing	33,000
12 years' standing	32,000
11 years' standing	31,000
10 years' standing	30,000
9 years' standing	19,000
8 years' standing	15,000
7 years' standing	10,000
6 years' standing	6,000
5 years' standing	5,000
Less than 5 years standing	25,000

only on death.

## STATEMENT OF OBJECTS AND REASONS

The role of the advocates right from the day of the Freedom movement upto the present day has been very significant and essential. They are cream of the society, group of intellectuals meant to fight upholding the rule of law and Constitution. They are to defend the State as well as citizens against any injustice and to assist the courts to give justice in upholding the law of the land and the Constitution. When they become physically incapable of carrying on their profession any further, they require assistance for security and safety for the rest of their life.

It is, therefore, felt necessary to provide through an Act some retirement benefits for welfare of the Advocates.

The Bill seeks to achieve the above objects.

NEW DELHI;

*July 27, 1987.*

SOMNATH RATH

#### FINANCIAL MEMORANDUM

Clause 22 of the Bill provides for the printing and distribution of stamps, on behalf of the Committee, by the Central Government and the State Governments, which shall be affixed to every vakalatnama or memorandum of appearance filed by an advocate for appearance before any court or tribunal. The cost of printing, distribution, etc. of stamps as regards the States shall be borne by the respective State Governments but, however, the Central Government shall have to bear the cost in respect of Union territories. However, the Central Government and the State Governments shall deduct all expenditure incurred by them on printing, distribution, etc. of stamps before handing over the amount collected by way of selling these stamps to the Central Committee. Therefore, the net result will be that there will be no recurring or non-recurring expenditure from the Consolidated Fund of India.

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

Clause 27 of the Bill provides that the Central Government may, in consultation with the Committee, make rules for carrying out the purposes of the Bill. The matters in regard to which the rules may be made are of detail only. Therefore, the delegation of legislative power is of a normal character.

## BILL No. 79 OF 1987

*A Bill further to amend the Indian Penal Code.*

Be it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

45 of 1860.

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 1987.

(2) It shall come into force at once.

Short title and commen-  
tation.

Amend-  
ment of  
section  
500.

2. In section 500 of the Indian Penal Code (hereinafter referred to as the principal Act), for the words "may extend to two years, or with fine, or with both", the words "shall not be less than one month but may extend to two years" shall be substituted.

3. In section 501 of the principal Act, for the words "may extend to two years, or with fine, or with both", the words "shall not be less than one month but may extend to two years" shall be substituted.

Amend-  
ment of  
section  
501.

4. In section 502 of the principal Act, for the words "may extend to two years, or with fine, or with both", the words "shall not be less than one month but may extend to two years" shall be substituted.

Amend-  
ment of  
section  
502.

## STATEMENT OF OBJECTS AND REASONS

Sections 500, 501 and 502 of the Indian Penal Code, provide punishment for (i) defamation; (ii) printing or engraving matter known to be defamatory; and (iii) sale of printed or engraved substance containing defamatory matter.

However, punishment provided for the above referred offences under the Penal Code, most of the sections of which have not been amended since the last one century, is very meagre. The Courts often impose a petty fine for these offences despite the tremendous loss of prestige, caused to an aggrieved person, in the society, on account of defamatory acts of the accused persons. Moreover, fine, big or small, certainly, is no answer to the offences of blatant defamation, being resorted to now-a-days.

Therefore, the Bill proposes to amend the relevant sections in order to provide for compulsory imprisonment, at least of one month, to those who are found guilty of the above referred offences.

NEW DELHI;  
*July 27, 1987.*

SHANTARAM NAIK.

SUBHASH C. KASHYAP,  
*Secretary-General.*